

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

CAROL A. KALFIAN

v.

CA 04-119 ML

MATRIX INITIATIVES, INC., et al.

ORDER

This matter is before the Court on Plaintiff's Motion to Voluntarily Dismiss Complaint pursuant to Fed. R. Civ. P. 41(a)(2). Plaintiff filed her motion after the parties had engaged in pretrial discovery and only shortly before the properly noticed and scheduled deposition of Plaintiff was to take place. The basis for Plaintiff's motion is that she wishes to join consolidated actions pending in Arizona against the same Defendants. Plaintiff advises that it would be more cost-effective for her to join the Arizona action as one of many Plaintiffs who would then share the costs of litigation.

Defendants object to the motion and in the alternative pray that the Court condition any dismissal order on Plaintiff's paying Defendants' counsel fees and the costs associated with defending this action.

This Court expressed concerns over Plaintiff's active litigation of this matter in this district and the eleventh hour change in direction now sought by Plaintiff. The Court, therefore, directed Defendants to provide the Court with an accounting of counsel fees and costs expended on this matter, specifying which costs and fees would not be of use to Defendants in the Arizona litigation. Defendants complied with the Court's directive by providing copies of their billing statements. Defendants seek


\$31,510.72.

The Court has reviewed the billing statements submitted by Defendants' counsel and finds that the vast majority of activities listed would of necessity have application in any proceeding in Arizona. Therefore, the Court has excluded any billings for research, client communication and drafting of pleadings which it finds would be of use in the Arizona proceeding.

Having completed its review, the Court makes the following order:

1. Plaintiff's Motion to Voluntarily Dismiss Complaint pursuant to Fed. R. Civ. P. 41(a)(2) is GRANTED.
2. The granting of Plaintiff's motion is conditioned on Plaintiff paying Defendants \$3086.50 in counsel fees within 10 days of the date of this Order.

SO ORDERED:



Mary M. Lisi
United States District Judge
January 19, 2006